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August 1, 2006

DECISION AND ORDER
OFFICE OF HEARINGS AND APPEALS

Hearing Officer's Decision

Case Name: Personnel Security Hearing

Date of Filing: February 8, 2006

Case Number: TSO-0355

This Decision concerns the eligibility of XXXXX XXXXXX XXXXXXXXXX (hereinafter referred to as "the individual") to hold an access authorization under the regulations set forth at 10 C.F.R. Part 710, entitled "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material."^{1/} A Department of Energy (DOE) Operations Office suspended the individual's access authorization under the provisions of Part 710. This Decision considers whether, on the basis of the evidence and testimony presented in this proceeding, the individual's access authorization should be restored. As set forth in this Decision, I have determined that the individual's security clearance should not be restored at this time.

I. Background

The provisions of 10 C.F.R. Part 710 govern the eligibility of individuals who are employed by or are applicants for employment with DOE, contractors, agents, DOE access permittees, and other persons designated by the Secretary of Energy for access to classified matter or special nuclear material. Part 710 generally provides that "[t]he decision as to access authorization is a comprehensive, common-sense judgment, made after consideration of all relevant information, favorable and unfavorable, as to whether the granting or continuation of access authorization will not endanger the common defense and security and is clearly consistent with the national interest." 10 C.F.R. § 710.7(a).

^{1/} An access authorization is an administrative determination that an individual is eligible for access to classified matter or special nuclear material. 10 C.F.R. § 710.5. Such authorization will be referred to variously in this Decision as an access authorization or security clearance.

The individual was granted a DOE security clearance after gaining employment with a DOE contractor. However, the local DOE security office (DOE Security) initiated formal administrative review proceedings by informing the individual that his access authorization was being suspended pending the resolution of certain derogatory information that created substantial doubt regarding his continued eligibility. This derogatory information is described in a Notification Letter issued to the individual on December 13, 2005, and falls within the purview of potentially disqualifying criteria set forth in the security regulations at 10 C.F.R. § 710.8, subsections (h), (j) and (l). More specifically, the Notification Letter alleges that the individual has: 1) “an illness or mental condition which in the opinion of a psychiatrist causes, or may cause, a significant defect in judgment and reliability [of the individual]”; 2) “[b]een, or is, a user of alcohol habitually to excess, or has been diagnosed by a psychiatrist as alcohol dependent or as suffering from alcohol abuse,” and 3) “engaged in unusual conduct or is subject to circumstances which tend to show that he is not honest, reliable, or trustworthy; or which furnishes reason to believe that he may be subject to pressure, coercion, exploitation, or duress which may cause him to act contrary to the best interests of national security.” 10 C.F.R. §§ 710.8(h), (j) and (l) (Criterion H, Criterion J and Criterion L, respectively). The bases for these findings are summarized below.

In reference to Criteria H and J, the Notification Letter states on September 30, 2005, the individual was evaluated by a DOE consultant-psychiatrist (DOE Psychiatrist) who diagnosed the individual with Substance Dependence, Alcohol (Alcohol Dependence), with Physiological Dependence, in Early Full Remission, based upon diagnostic criteria set forth in the Diagnostic and Statistical Manual of the American Psychiatric Association, IVth Edition TR (DSM-IV TR). According to the DOE Psychiatrist, this is a mental condition that causes or may cause a significant defect in the individual’s judgment or reliability. In addition, the Notification Letter indicates that: (1) in May 1994, the individual was previously diagnosed by the same DOE Psychiatrist with Psychoactive Substance Dependence (Alcohol Disorder), Mild, Active; (2) the individual has undergone treatment and periods of abstinence, from 1989 to 1992, and from 1994 to 2002, but made the decision to resume drinking, and (3) on December 15, 2004, the individual was arrested on a charge of Aggravated Driving While Intoxicated (DWI), at which time the individual was measured as having a blood alcohol content (BAC) of .18.

Under Criterion L, the Notification Letter describes several instances where the individual gave inaccurate information to DOE Security regarding his past use of illegal drugs. The Notification Letter also states that the individual intentionally minimized his use of alcohol during a security interview, and failed to follow through on an assurance that he would not drink again.

In a letter received by the DOE Office of Hearings and Appeals (OHA) on February 8, 2006, the individual exercised his right under Part 710 to request a hearing in this

matter. 10 C.F.R. § 710.21(b). On February 13, 2006, I was appointed as Hearing Officer. After conferring with the individual and the appointed DOE Counsel, 10 C.F.R. § 710.24, I established a hearing date. At the hearing, DOE Security called the DOE Psychiatrist as its sole witness. The individual testified on his own behalf, and also called his own psychiatrist, his daughter and three close friends. The transcript taken at the hearing will be hereinafter cited as "Tr." Documents that were submitted during this proceeding by DOE Security and the individual constitute exhibits to the hearing transcript and will be cited respectively as "DOE Exh." and "Ind. Exh."

Summary of Findings

The following factual summary is essentially uncontroverted. However, I will indicate instances in which there are disparate viewpoints regarding the information presented in the record.

The individual was employed by a DOE contractor in April 1986, and submitted a Personnel Security Questionnaire (PSQ), dated June 25, 1986, to obtain a security clearance. However, certain derogatory information regarding the individual's use of illegal drugs was received by DOE Security during the background investigation of the individual, and he was therefore required to submit to a Personnel Security Interview (PSI), conducted on November 16, 1987. In his PSQ, the individual indicated that he had never used illegal drugs. Presented with discrepant information during the PSI, however, the individual admitted to using marijuana once or twice a week from 1969 to 1974 and occasionally from 1977 to 1980, using hashish approximately 12 times from 1969 to 1974, and using methamphetamine on one occasion in early 1986. The individual also revealed that there were times during the early 1980's when he used alcohol to excess. The individual's use of alcohol was determined not to be a problem at that time, and the individual's past use of illegal drugs was deemed resolved by his agreeing to sign a Drug Certification attesting that he would never use illegal drugs while holding a DOE security clearance. The individual was therefore granted a security clearance in November 1987.

During the late 1980's, the individual fell into a pattern of heavy alcohol use. By 1989, the individual was drinking a six pack of beer and a half pint of liquor on most evenings. The individual's drinking placed a considerable strain on his marriage, and his wife left him, taking their two children with her. In addition, the individual's co-workers noticed that he was frequently coming to work with a hangover and with the lingering smell of alcohol. In response to the encouragement of co-workers, the individual entered an outpatient alcohol treatment program in October 1989. The individual was diagnosed with Chemical Dependence/Alcohol. The individual successfully completed the required three months of treatment followed by nine months of aftercare under the program, and thereafter began attending Alcoholics Anonymous (AA) on nearly a daily basis although he did not have an AA sponsor.

In late 1990, the individual decided to seek employment with a Department of Defense (DOD) contractor, and was required to obtain a DOD clearance. In the required National Agency Questionnaire (NAQ) completed by the individual, dated August 15, 1990, the individual stated that his last use of marijuana was in 1980 and that he has used the drug only a few times. The individual reported no other use of illegal drugs on his NAQ. Concerning his use of alcohol, the individual provided a Statement to DOD, dated February 11, 1991, in which he described his past alcohol abuse and stated his intention to never use alcohol again. The individual successfully obtained the DOD security clearance and employment with the DOD contractor, and his DOE security clearance was therefore terminated in May 1991.

However, in 1992, the individual was laid off by the DOD contractor and began to have money problems. The individual stopped attending AA, and in December 1992, the individual made the decision to start drinking again after being abstinent for three years. The individual thought he could handle drinking in moderation on a social basis, but he began to have episodes of excessive drinking within six months.

In August 1993, the individual regained employment with a DOE contractor and sought to again obtain a DOE security clearance by the filing of a Questionnaire for National Security Positions, dated October 4, 1993. On March 18, 1994, the individual was summoned for a PSI. During this PSI, the individual denied using any illegal drug after 1980. The individual further described his drinking during the late 1980's, leading to the individual's decision to seek treatment in 1989. The individual admitted that he had minimized his alcohol use during the PSI conducted in November 1987. At the conclusion of the March 1994 PSI, DOE Security had unresolved concerns with the individual's use of alcohol based upon his revelation that he had resumed drinking in December 1992. The individual was therefore referred to the DOE Psychiatrist.

After a psychiatric evaluation conducted on May 12, 1994, the DOE Psychiatrist diagnosed the individual with Psychoactive Substance Dependence (Alcohol Disorder), Mild, Active, based upon diagnostic criteria set forth in The Diagnostic and Statistical Manual of the American Psychiatric Association, Third Edition, Revised. As part of his evaluation, the DOE Psychiatrist conducted laboratory testing of the individual which revealed that the individual had contracted Hepatitis C. The DOE Psychiatrist informed the individual of this test result and advised him that, because of this serious liver condition, he should not drink.

Based upon the report of the DOE Psychiatrist, and two subsequent PSI's conducted in June and July 1994, it was decided by DOE Security to allow the individual to avail himself of the Employee Assistance Program Referral Option (EAPRO) to obtain a security clearance. EAPRO is a program whereby an individual is granted or allowed to retain his security clearance conditioned upon the individual's agreement to maintain abstinence, submit to ongoing alcohol testing and participate in an alcohol

treatment program. The individual signed an EAPRO Consent to Participate in July 1994, and immediately began abstinence and attending AA meetings. In late July 1994, the individual was referred to and entered an Outpatient Chemical Dependency Program. Based upon his EAPRO agreement, the individual was granted a security clearance in October 1994. From July 1994 until April 1997, the individual successfully completed all phases of his required EAPRO program.

The individual remained abstinent for nearly eight years, from 1994 until 2002 when he made the decision to resume drinking alcohol. At the time, the individual was despondent over breaking up with his fiancée and began to frequent bars to socialize and drink. At first, the individual was able to control his drinking but, within a few months, he was becoming intoxicated on weekly basis. The individual drank to the point of having an alcoholic blackout on two occasions. In early 2004, the individual was reprimanded for an incident at work in which he lost his temper and berated a co-worker at a meeting. The individual now admits that his use of alcohol contributed to his irritability and short temper on that day. The individual rarely attended AA during this time period and continued to drink.

Finally, on December 15, 2004, the individual was arrested on a charge of Aggravated DWI. On this occasion, the individual was stopped by the police after leaving a bar where he had consumed several mixed drinks. The individual refused the field sobriety test but a breathalyzer test later administered at the detention facility showed that the individual had a BAC of .18. Since this was the individual's first alcohol arrest, the charge was later reduced to a misdemeanor DWI. The individual was required to attend twelve weeks of court-sponsored alcohol counseling and placed on six months probation. The individual immediately began abstinence subsequent to his DWI arrest and has consumed no alcohol since that time. The individual also resumed attending AA on his own volition. Following the arrest, the individual did 90 AA meetings in 90 days and obtained an AA sponsor. A PSI was conducted with the individual on August 30, 2005, and the individual was then referred to the DOE Psychiatrist.

The DOE Psychiatrist reviewed the individual's personnel security file and performed a psychiatric interview and evaluation of the individual on September 30, 2005. In his report issued on October 6, 2005, the DOE Psychiatrist set forth his opinion that the individual meets the DSM-IV TR criteria for Alcohol Dependence. The DOE Psychiatrist categorized the individual's Alcohol Dependence as being in "Early Full Remission" based upon the individual's nine months of abstinence at the time of his evaluation. The DOE Psychiatrist further states in his report, however, that the individual's Alcohol Dependence is an illness or mental condition which causes or may cause a significant defect in the individual's judgment or reliability, until such time as the individual is able to demonstrate adequate evidence of rehabilitation or reformation. In this regard, the DOE Psychiatrist recommended either of the following as evidence of rehabilitation:

- 1) total abstinence from alcohol and non-prescribed

controlled substances for three years with 200 hours of attendance at Alcoholics Anonymous (AA), with a sponsor, at least once a week over a two-year time frame, or 2) total abstinence for four years with satisfactory completion of a professionally led, alcohol treatment program, with aftercare for a minimum of six months. As adequate evidence of reformation, the DOE Psychiatrist recommended three or four years of abstinence if the individual completes either of the two rehabilitation programs, or five years of abstinence if he does not.

The DOE Psychiatrist further notes in his report that, during his psychiatric interview, the individual gave information about his past drug use differing from that previously provided to DOE Security. While the individual previously denied using cocaine during his November 1987 PSI, he informed the DOE Psychiatrist that he used cocaine about 30 times a year for nearly two years during the early 1980's. The individual also admitted to using methamphetamine 25 to 30 times during the early 1980's, rather than one time as previously reported, and that he used marijuana as late as 1985, rather than prior to 1980.

II. Analysis

A DOE administrative review proceeding under 10 C.F.R. Part 710 is not a criminal matter, in which the burden is on the government to prove the defendant guilty beyond a reasonable doubt. See Personnel Security Hearing, Case No. VSO-0078, 25 DOE ¶ 82,802 (1996). In this type of case, we are dealing with a different standard designed to protect national security interests. A hearing is "for the purpose of affording the individual an opportunity of supporting his eligibility for access authorization." 10 C.F.R. § 710.21(b)(6). Once DOE Security has made a showing of derogatory information raising security concerns, the burden is on the individual to come forward at the hearing with evidence to convince the DOE that granting or restoring his access authorization "would not endanger the common defense and security and would be clearly consistent with the national interest." 10 C.F.R. § 710.27(d). This standard implies that there is a strong presumption against the granting or restoring of a security clearance. See *Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) ("clearly consistent with the national interest" standard for the granting of security clearances indicates "that security determinations should err, if they must, on the side of denials"); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990), cert. denied, 499 U.S. 905 (1991) (strong presumption against the issuance of a security clearance).

I have thoroughly considered the record of this proceeding, including the submissions of the parties, the evidence presented and the testimony of the witnesses at the hearing convened in this matter. In resolving the question of the individual's eligibility for access authorization, I have been guided by the applicable factors prescribed in 10 C.F.R. § 710.7(c): the nature, extent, and seriousness of the conduct; the circumstances surrounding the conduct, to include knowledgeable participation; the

frequency and recency of the conduct; the voluntariness of the participation; the absence or presence of rehabilitation or reformation and other pertinent behavioral changes; the motivation for the conduct; the potential for pressure, coercion, exploitation, or duress; the likelihood of continuance or recurrence; and other relevant and material factors. After due deliberation, it is my opinion that the individual's access authorization should not be restored since I am unable to conclude that such restoration would not endanger the common defense and security and would be clearly consistent with the national interest. 10 C.F.R. § 710.27(d). The specific findings that I make in support of this determination are discussed below.

A. Derogatory Information

The DOE Psychiatrist diagnosed the individual with Alcohol Dependence based upon diagnostic criteria set forth in the DSM-IV TR. DOE Exh. 21 at 13-14. The DSM-IV TR generally provides that a diagnosis of Alcohol Dependence is supported when the individual manifests three or more of the following behaviors occurring at any time within the same twelve-month period: 1) increased tolerance, 2) withdrawal, 3) alcohol often consumed in larger amounts or over a longer period than intended; 4) persistent desire or unsuccessful efforts to cut down, 5) great deal of time spent in activities to obtain alcohol; 6) important social, occupational, or recreational activities given up or reduced; and 7) continued use despite physical or psychological problem caused or exacerbated by alcohol. See *id.* at 13. In the case of the individual, the DOE Psychiatrist determined that the individual met the criteria 1, 4, 5, 6 and 7 during his periods of alcohol use, particularly during the late 1980's. In the judgment of the DOE Psychiatrist, the individual satisfied criteria 4, 6 and 7 during the period preceding December 2004, when the individual was arrested for Aggravated DWI. *Id.* at 14.

I find that the Alcohol Dependence diagnosis of the DOE Psychiatrist is amply supported by the record of this case. At the hearing, the individual called his own psychiatrist who agreed that the individual was properly diagnosed with Alcohol Dependence. Tr. at 103. I therefore find that DOE Security properly invoked Criteria H and J in suspending the individual's security clearance. In other DOE security clearance proceedings, Hearing Officers have consistently found that a diagnosis related to excessive alcohol use raises important security concerns. See, e.g., Personnel Security Hearing, Case No. TSO-0168, 29 DOE ¶ 82,807 (2005); Personnel Security Hearing, Case No. VSO-0079, 25 DOE ¶ 82,803 (1996) (affirmed by OSA, 1996); Personnel Security Hearing, Case No. VSO-0042, 25 DOE ¶ 82,771 (1995) (affirmed by OSA, 1996); Personnel Security Hearing, Case No. VSO-0014, 25 DOE ¶ 82,755 (1995), *aff'd*, Personnel Security Review, 25 DOE ¶ 83,002 (OSA, 1995). In these cases, it was recognized that the excessive use of alcohol might impair an individual's judgment and reliability, and his ability to control impulses. These factors amplify the risk that the individual will fail to safeguard classified matter or special nuclear material. *Id.* Accordingly, I will turn to whether the individual has presented sufficient evidence of

rehabilitation or reformation to mitigate the concerns of DOE Security.

B. Mitigating Evidence

The individual testified that his December 2004 DWI was “a point of incomprehensible demoralization . . . my epiphany” that compelled him to face and address his alcoholism. Tr. at 85. The individual marks his official sobriety date as December 27, 2004, and asserts that he has consumed no alcohol since that time. Tr. at 84. The individual’s daughter and close friends corroborated the individual’s sobriety during their testimony. See Tr. at 16-17, 29, 54. Immediately following his DWI arrest, the individual attended 90 AA meetings in 90 days on his own volition, obtained an AA sponsor,^{2/} and has continued to attend as many as five to six AA meetings a week since that time. Tr. at 86. In addition, as a condition of his probation, the individual attended a Victims Impact Panel and, in July 2005, successfully completed a twelve-week substance abuse treatment program. Tr. at 82-83; see Ind. Exh. 1.

The individual has now developed a strong relationship with his daughter who is very supportive of his sobriety. Tr. at 17. The daughter described the individual as “very serious” about maintaining abstinence. Tr. at 23. In addition, the individual has established a circle of friends who also support the individual’s continued sobriety. Three of these friends testified at the hearing. One testified that the individual has confided to him that he never intends to drink again. Tr. at 35. Another testified that the individual is “taking every step to correct” his alcohol problem, and that “he’s dedicated to it.” Tr. at 37. The individual and his friends belong to a motorcycle club and often socialize together. The individual’s friends testified that they try to ensure that the individual is not placed in an environment where he will feel uncomfortable because others are consuming alcohol. See Tr. at 27, 32-34, 41, 48-49.

I was impressed at the hearing with the individual’s candor and stated commitment to maintaining his abstinence: “I’ve set my arrogance aside and realize that people have told me that I have a problem, that I can’t – can’t clinically fix. My only hope is to abstain from alcohol. My only chances are to abstain from alcohol.” Tr. at 90. The individual honestly admitted that he has had urges to drink since resuming abstinence in December 2004, testifying that: “I have those thoughts every once in awhile, but I know that I can’t do this. I’ve proven to myself twice now that I can’t drink normally.

^{2/} The individual obtained a sponsor soon after resuming AA attendance in December 2004. The individual generally called the sponsor once a week and sometimes had dinner with him. Tr. at 86. During the past year, however, the individual began attending AA meetings at a location more convenient to his home. Tr. at 87. Thus, the individual had been without an AA sponsor during the six months prior to the hearing, but committed to finding a new sponsor. Tr. at 88.

I can't consume alcohol because alcohol becomes excessive for me." Tr. at 91. The individual testified that he will rely upon AA and the support of his daughter and friends to help him to maintain his sobriety. Tr. at 92-93.

The individual called his psychiatrist (Individual's Psychiatrist) to testify on his behalf. The Individual's Psychiatrist has been treating the individual for depression since 1999. Tr. at 76-77, 102. The individual and the Individual's Psychiatrist acknowledged that the primary focus of their sessions is the individual's depression. Tr. at 89-90, 110-11.^{3/} However, the Individual's Psychiatrist has substantial experience in the field of substance abuse treatment and proffered his opinion with regard to the individual's recovery from alcoholism. While the Individual's Psychiatrist agreed that the individual was properly diagnosed with Alcohol Dependence, he expressed his opinion that the individual has demonstrated adequate rehabilitation and reformation based upon his 17 months of sobriety at the time of the hearing. Tr. at 104-05. According to the Individual's Psychiatrist, abstinence of this duration would generally place the individual in the 90th percentile of recovering alcoholics who are able to maintain their sobriety. Id. In addition, the Individual's Psychiatrist cited other factors to support his opinion that the individual has achieved adequate rehabilitation and reformation: (1) the individual's serious dedication to AA attendance since the December 2004 DWI; (2) the DWI was "rock bottom" and a turning point in the individual's life, and (3) the individual has strong support from his daughter and friends. See Tr. at 106-07, 110.

Upon hearing the testimony of the individual, the DOE Psychiatrist commended the individual for his efforts in confronting his Alcohol Dependence since December 2004. Tr. at 144. However, the DOE Psychiatrist expressed his opinion that the individual had not yet achieved adequate rehabilitation or reformation. Tr. at 121.^{4/} The DOE Psychiatrist adhered to the requirements stated in his report, that in order to achieve adequate rehabilitation, the individual must show: 1) total abstinence from alcohol and non-prescribed controlled substances for three years with 200 hours of attendance at Alcoholics Anonymous (AA), with a sponsor, at least once a week over a two-year

^{3/} The individual was referred to the Individual's Psychiatrist by another psychiatrist who initially treated the individual for his depression. The Individual's Psychiatrist described his current role as the individual's "psychopharmacologist" who has prescribed and monitors the individual's use of his anti-depressant medication, Effexor. Tr. at 110-11.

^{4/} The DOE Psychiatrist disagreed with the opinion of the Individual's Psychiatrist that the individual has a 90% chance of maintaining his sobriety, based upon a study conducted by a noted drug company. See Tr. at 104. According to the DOE Psychiatrist, a more apposite study indicates that an individual with Alcohol Dependence has only a 70% chance of maintaining sobriety with one, but less than two, years of abstinence. Tr. at 121-22.

time frame, 2) total abstinence for four years with satisfactory completion of a professionally led, alcohol treatment program, with aftercare for a minimum of six months, or 3) as adequate evidence of reformation, three or four years of abstinence if the individual completes either of the two rehabilitation programs, or five years of abstinence if he does not. DOE Exh. 21 at 15; Tr. at 122.

The DOE Psychiatrist conceded that the three years of sobriety he recommends for the individual is a year longer than the usual two years of abstinence, with AA, that he recommends in cases of Alcohol Dependence. Tr. at 122. The DOE Psychiatrist explained, however, that: “[T]hree years is only one year more than my usual. But that’s really what I would want to see before I would feel comfortable in saying that his risk of relapse in the next five years is low, because he’s had long periods of sobriety. From ‘89 to ‘93, he was sober for four years. From ‘94 to 2002, he was sober eight years, and then he’s had serious relapses. . . . I believe with only a year-and-a-half of sobriety, his risk of relapse over the next five years is maybe as much as more likely than not.” Tr. at 122-23.

Having thoroughly considered the record of this case, I find it appropriate to defer to the opinion of the DOE Psychiatrist. I too heartily commend the individual on the manner in which he has proactively addressed his alcoholism since his December 2004 DWI. While I am not thoroughly convinced that three years of abstinence, with AA and a sponsor, would be required for the individual to achieve adequate rehabilitation, I am persuaded by the DOE Psychiatrist that 17 months is not enough in the individual’s case in view of his past history of periods of abstinence and then relapse. The first period of treatment and abstinence occurred after the individual’s wife and children left him, and the second occurred after the individual was offered EAPRO by DOE Security to obtain a security clearance and keep his job. In both instances, the individual returned to problematic drinking. Under these circumstances, and with only 17 months of sobriety at the time of the hearing, I find that the individual has not yet overcome the security concerns associated with his past use of alcohol and diagnosis of Alcohol Dependence. See Personnel Security Hearing, Case No. VSO-0359, 28 DOE ¶ 82,768 (2000), *aff’d*, Personnel Security Review, 28 DOE ¶ 83,016 (2001); Personnel Security Hearing, Case No. TSO-0011, 28 DOE ¶ 82,912 (2003); *cf.* Personnel Security Hearing, Case No. TSO-0001, 28 DOE ¶ 82,911 (2003).

C. Criterion L, Unusual Conduct

Under Criterion L, the Notification Letter cites false or discrepant statements by the individual regarding his use of alcohol and illegal drugs. With regard to alcohol, the Notification Letter references: 1) a written document provided by the individual to DOD in February 1991, in which the individual states his intention to never use alcohol again, see DOE Exh. 46, 2) the individual’s admission during a PSI

conducted in March 1994 that he intentionally minimized his use of alcohol during a PSI conducted in November 1987. DOE Exh. 54 at 112-15. I find with regard to these two matters that the individual's past failure to maintain sobriety and his minimization were symptomatic of his Alcohol Dependence. In the foregoing section of this Decision, I have determined that the individual has failed to mitigate the concerns of DOE Security associated with his diagnosis. I therefore find, correspondingly, that the individual has not yet overcome these concerns of DOE Security under Criterion L.^{5/}

With regard to his past use of illegal drugs, the Notification Letter refers to several discrepancies between the information provided to the DOE Psychiatrist and that provided to DOE Security during his November 1987 PSI. While the individual previously denied using cocaine during his November 1987 PSI, he informed the DOE Psychiatrist that he used cocaine about 30 times a year for nearly two years during the early 1980's. See DOE Exh. 21 at 10; DOE Exh. 55 at 6-9. The individual also admitted to the DOE Psychiatrist that he used methamphetamine 25 to 30 times during the early 1980's, rather than one time as he previously reported to DOE Security, and that he used marijuana as late as 1985, rather than only prior to 1980. DOE Exh. 21 at 10; DOE Exh. 55 at 19-22. Finally, the Notification Letter notes that the individual gave incomplete information regarding his marijuana use to DOD in August 1990, on an NAQ submitted by the individual to obtain a DOD security clearance. See DOE Exh. 45.

At the hearing, the individual admitted to providing false or incomplete information regarding his past use of illegal drugs, but said that he did so out of "fear" that he would not be considered favorably for a security clearance. Tr. at 95-96, 98. The individual explained that he decided to be completely honest with the DOE Psychiatrist because he believes that honesty is an important part of his recovery from alcoholism under his AA 12-step program. Tr. at 99. The Individual's Psychiatrist and the DOE Psychiatrist agreed that the individual's present honesty is an important step in his program of rehabilitation from Alcohol Dependence. Tr. at 113-14, 123.

I am disturbed by the individual's dishonesty in providing inaccurate information about his past drug use to DOE in 1987, and to DOD in 1990, during the process of being considered for a security clearance. However, the record persuades me that the individual's conduct in 1987 and 1990 is uncharacteristic of his honesty at this time.

^{5/} At the hearing, the Individual's Psychiatrist stated his view that the individual's failure to follow through on his 1991 promise not to drink again is not properly a Criterion L concern, since the individual was trying to be honest at the time. Tr. at 112. I agree that the individual's failure to maintain his sobriety was not a matter of his honesty or trustworthiness but a consequence of his Alcohol Dependence. Notwithstanding, I find that legitimate security concerns remain under Criterion L with regard to the individual's reliability until such time as the individual has achieved adequate rehabilitation or reformation.

The individual impressed me as very direct, honest and forthright during his testimony at the hearing. The individual's daughter and close friends testified that the individual has exhibited a determination to be open and honest, and has a sound reputation for reliability and trustworthiness among his friends and associates. See Tr. at 23, 32, 41, 55. Further, the Individual's Psychiatrist and the DOE Psychiatrist concurred in their belief that the individual is genuine in his stated commitment to be completely honest about his past alcohol and drug abuse, as part of his program of recovery. Tr. at 114, 123. I am therefore satisfied that the individual has sufficiently mitigated the Criterion L security concerns with regard to his providing inaccurate information in 1987 and 1990 about past use of illegal drugs.^{6/}

III. Conclusion

As explained in this Decision, I find that DOE Security properly invoked 10 C.F.R. §§ 710.8(h), (j) and (l) in suspending the individual's access authorization. For the reasons I have described above, I find that the individual has failed to mitigate the security concerns associated with his past use of alcohol and resulting diagnosis of Alcohol Dependence. I am therefore unable to find that restoring the individual's access authorization would not endanger the common defense and security and would be clearly consistent with the national interest. Accordingly, I find that the individual's access authorization should not be restored at this time. The individual may seek review of this Decision by an Appeal Panel under the regulations set forth at 10 C.F.R. § 710.28.

Fred L. Brown
Hearing Officer
Office of Hearings and Appeals

Date: August 1, 2006

^{6/} While the individual provided false or incomplete information about his past drug use, the individual emphasized at the hearing that he has never violated the Drug Certification he signed in 1987 and has never used an illegal drug while holding a DOE or DOD security clearance. Tr. at 96-97.